



United States District Court
District of Arizona
Probation Office
MEMORANDUM

DATE: August 17, 2017

TO: The Honorable Raner C. Collins
Chief United States District Judge

FROM: Ruben A. Morales
U.S. Probation Officer
Office Phone: 520-205-4674
Cell Phone: 520-631-2024

RE: Roger Dale Premus
Case No. CR-11-01170-001-TUC-RCC (BGM)
SUPERVISED RELEASE DISPOSITION REPORT

VICTIM NOTIFICATION

Not required pursuant to 18 U.S.C. § 3771.

PROCEDURES FOLLOWED

On May 17, 2017, a petition to revoke supervised release was filed, and a warrant issued later the same day. On June 13, 2017, the warrant was executed and Premus had his initial appearance on June 14, 2017, before Magistrate Judge Leslie A. Bowman where he was ordered detained. Premus' admit/deny hearing was held on July 26, 2017, before Magistrate Judge Bruce G. MacDonald, where Premus admitted to Allegation A, that he used cocaine on February 11, 2016; and, cocaine and amphetamines on March 31, 2017. The written disposition agreement calls for an imprisonment range of five to eight months prison with an additional term of supervised release, the length to be determined by the Court. Disposition is set for August 31, 2017.

RELEASE STATUS

Premus is in custody. As of disposition, Premus will have 80 days in custody.

ALLEGATIONS ADMITTED

A **Standard Condition #9** which states, "*You shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 801) or any paraphernalia related to such substances, without a prescription by a licensed medical practitioner. The use or possession of medicinal marijuana, even with a physician's written certification, is not permitted. Possession of controlled substances will result in mandatory revocation of your term of supervision.*"

1) On or about February 11, 2016, Premus used cocaine as evidenced by positive urinalyses submitted by Premus and confirmation by Alere Laboratory.

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2) On or about March 31, 2017, Premus used cocaine and amphetamines as evidenced by a urinalysis specimen submitted by Premus and his own admission. Grade C violation. §7B1.1(a)(3)

ALLEGATIONS TO BE DISMISSED

None.

RANGE OF IMPRISONMENT APPLICABLE UPON REVOCATION

A Grade C violation combined with a Criminal History Category III results in a revocation range of 5 to 11 months imprisonment. U.S.S.G. §7B1.4(a).

The statutory maximum term of imprisonment allowable upon revocation is 36 months as the offense that resulted in the term of supervised release is a Class B Felony. 18 U.S.C. § 3583(e)(3).

At the time of sentencing, the offender's original guideline sentencing range was 60 to 71 months, and the offender was sentenced to 60 months prison, followed by 60 months supervised release.

SENTENCING OPTIONS

Upon a finding of a Grade C violation, the Court may (A) revoke supervision or (B) extend the term of probation or supervised release and/or modify the conditions of supervision. U.S.S.G. §7B1.3(a)(2).

In the case of a Grade C violation where the minimum term of imprisonment determined under U.S.S.G. §7B1.4 is at least one month but not more than six months, the minimum term may be satisfied by A) a sentence of imprisonment or B) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in U.S.S.G. §5C1.1(e) for any portion of the minimum term. U.S.S.G. §7B1.3(c)(1).

Although 18 U.S.C. § 3583(e)(3) applies (the instant offense occurred on or after April 30, 2003), the maximum available supervised release term is 48 months as no prior revocations have occurred.

DEPARTURE FACTORS TO BE CONSIDERED

While the probation officer has not identified factors relevant to sentencing outside the revocation policy range, this does not preclude the Court or counsel from considering additional factors at the disposition hearing.

UNSERVED SANCTION ADJUSTMENT

None.

OFFICIAL DETENTION

None.

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HISTORY OF COURT ACTION

<u>Court Date and Action</u>	<u>Circumstance(s)</u>
8/1/2011: Sentenced to 60 months Bureau of Prisons; and 60 months supervised release	Instant Offense: Possession With Intent To Distribute Marijuana, 21 U.S.C. § 841(a)(1) and (b)(1)(B), a Class B Felony

SENTENCING RECOMMENDATION**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA****UNITED STATES V. Roger Dale Premus, DKT. CR-11-01170-001-TUC-RCC (BGM)**

Official Detention Adjustment: None

Highest Grade of Violation: C

Criminal History Category: III

	<u>Statutory Provisions</u>	<u>Guideline Provisions</u>	<u>Disposition Agreement Provisions</u>	<u>Recommended Sentence</u>
CUSTODY:	Up to 36 months, 18 U.S.C. § 3583(e)(3)	5 to 11 months, U.S.S.G. §7B1.4(a)	5 to 8 months	6 months
SUPERVISED RELEASE:	Up to life, 18 U.S.C. § 3583(h)	Up to life, U.S.S.G. §7B1.3(g)(2)	Additional term, with length to be determined by the Court	24 months

JUSTIFICATION

Roger Dale Premus is before the Court for his first petition to revoke supervised release. Premus started supervision on September 22, 2014, and began residing in Tucson, Arizona, at a homeless shelter as he wanted to save money and continue working until his job finished in November 2014.

In November 2014, Premus began residing with his mother in Amado, Arizona. The offender tested positive for cocaine use in February 11, 2016, and was placed at New Beginnings Treatment Center for residential drug treatment in March 2016. Premus completed the program in May 2016, was discharged, and began living with his mother once again in Amado, Arizona. It should be noted Premus completed RDAP (Residential Drug Abuse Program) while at the Bureau of Prisons, and an outpatient treatment program via Cactus Counseling while under supervision.

After completing his 60-day program at New Beginnings Treatment Center, Premus began attending substance abuse treatment aftercare through COPE Community Services. On March 31, 2017, Premus submitted a urine specimen that tested positive for cocaine and amphetamines use. Premus admitted to the drug use indicating he was feeling stressed out and went back to the thing that relaxes him.

A sentence toward the low-end of the advisory guidelines, six months, is warranted as a punishment for violating his conditions of supervision and to promote respect for the law. A period of 24 months supervised release to follow is also warranted and appropriate to provide Premus services to address his substance use.

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SPECIAL CONDITIONS

The following conditions are appropriate and necessary to promote a law-abiding and drug-free lifestyle for Roger Dale Premus. The defendant should participate in a substance abuse program to help him establish and maintain sobriety. He should submit to searches and financial disclosure to ensure he is meeting his financial obligations and is in compliance with his supervised release conditions. A condition requiring Premus to reside and participate, at the probation officer's discretion, in a residential re-entry center for up to 180 days is necessary should he require assistance in establishing sobriety in a sober living environment, and get assistance in attending substance abuse counseling as well as employment. Lastly, a condition requiring Premus to abstain from all alcohol is necessary to assist him in establishing and maintaining sobriety.

VOLUNTARY SURRENDER

Roger Dale Premus is in custody.

RECOMMENDATION

If the Court concurs, the following language may be used.

The Court has considered the factors set forth in 18 U.S.C. § 3583(e), the U.S. Sentencing Commission Chapter 7 policy statements, the original guideline range, statements of the parties, and all documentation submitted, including the disposition report.

It is the order of the Court that probation/supervised release is revoked and Roger Dale Premus is committed to the custody of the Bureau of Prisons for a period of six months.

Upon release from imprisonment, the defendant shall be placed on supervised release for 24 months.

While on supervised release, the defendant shall comply with the standard conditions of supervision adopted by this Court in General Order 17-18. Of particular importance, the defendant shall not commit another federal, state, or local crime during the term of supervision and the defendant shall abstain from the use of illicit substances. Within 72 hours of release from the custody of the Bureau of Prisons the defendant shall report in person to the Probation Office in the district to which the defendant is released. The defendant shall comply with the following additional condition(s):

1. You shall participate as instructed by the probation officer in a program of substance abuse treatment which may include testing for substance abuse. You shall contribute to the cost of treatment in an amount to be determined by the probation officer.
2. You shall submit your person, property, house, residence, vehicle, papers, or office to a search conducted by a probation officer. Failure to submit to a search may be grounds for revocation of release. You shall warn any other occupants that the premises may be subject to searches pursuant to this condition.
3. You shall provide all financial documentation requested by the probation office.

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4. At the discretion of the probation officer, you shall actively participate in a residential program as directed by the probation officer until discharged by the probation officer, but not to exceed 180 days without a Court review. Placement may include, singularly or in any combination, a residential re-entry center, a halfway house, inpatient drug treatment or a drug-free sober living environment as selected by the probation officer.
5. You shall abstain from all use of alcohol or alcoholic beverages.

Submitted by:

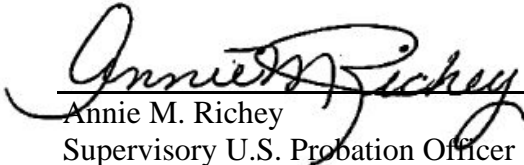


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8/17/2017

Date

Reviewed by:



Annie M. Richey
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8/17/2017

Date